

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

January 16, 2003

A meeting of the Board of Environmental Protection was held on Thursday, January 16, 2003, at the Holiday Inn / Ground Round facility in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: John Tewhey, Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, Irving Faunce, Richard Wardwell, John Marsh, and Nancy Ziegler

Absent: Jean T. Wilkinson and Irving Faunce departed at approximately 11:45

Staff: Bureau of Land and Water Quality Stacie Beyer

Others: Brooke E. Barnes, Acting Commissioner
Peggy McCloskey, Assistant Attorney General
Cynthia S. Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 4:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER’S CORNER: Acting Commissioner Barnes reported the following:

DEP Commissioner: Dawn Gallagher is expected to be scheduled for her confirmation hearing within the next 30 days.

Great Northern Paper: The Department is working with the facility to ensure that the recent shutdown of the mill does not create an environmental problem, ensuring there is sufficient heat to avoid malfunctions of pollution control equipment or cold weather impacts to pipes and detention pond equipment.

Legislative Bills: There are approximately 1800 proposed bills this Legislative session; about 120 impact DEP either directly or indirectly. The bills do not reflect any unusual issues.

DEP: The Department recently held an orientation program for about 8 new employees. The new employees reported that they came here because they heard that the Maine DEP is a great place to work; two individuals moved here from other state agencies (MA and GA). The high caliber of individuals seeking employment at the Department will keep Maine DEP strong.

B. CHAIRMAN’S COMMENTS: Assistant Attorney General Peggy McCloskey announced that Jon Edwards will re-join the Attorney General's Office next week. It is possible that he will assume the duties regarding the Department's Draft General Permit for Finfish Aquaculture.

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| C. EXECUTIVE ANALYST COMMENTS: | None |
| D. BOARD CALENDAR: | Reviewed |
| E. DEPARTMENTAL ORDERS: | Reviewed |
| F. EXECUTIVE SESSION: | None |

II. CONSENT AGENDA ITEMS

The Board voted (8-0-0-2) on a motion to approve consent agenda items 1, 2, and 3 as presented.

1. TOWN OF VINALHAVEN, Vinalhaven - Administrative Consent Agreement (BLWQ-Land)
2. TOWN OF MONROE, Monroe - Administrative Consent Agreement (BLWQ-Land)
3. IVAN ROBERTS, Greenwood - Administrative Consent Agreement (BLWQ-Land)

III. Regular Agenda

1. WIDEWATER STILLWATER COMPANY, L.L.C., STILLWATER RETAIL DEVELOPMENT (PROPOSED FOR DECISION)

On an appeal by Intervenor Maine Audubon of the Presiding Officer's ruling to deny its request to present oral argument regarding the legal issues pertaining to subdivision and mitigation, the Board voted (8-0-1-1) to affirm the Presiding officer's ruling. Board members John Tewhey, Richard Wardwell, Ernest Hilton, Melford Pelletier, Katharine Littlefield, Virginia Plummer, John Marsh, and Nancy Ziegler voted to support the motion to affirm. Board member Irving Faunce abstained and Board member Jean Wilkinson was absent.

- A. A motion to table deliberation on the draft order and re-open the record for the limited purpose of receiving additional written evidence regarding the question of subdivision issue failed (3-5-0-2).

Board members John Marsh, Virginia Plummer and Nancy Ziegler voted to support the motion. Board members Richard Wardwell, John Tewhey, Ernest Hilton, Melford Pelletier and Katharine Littlefield voted opposed. Board members Irving Faunce and Jean T. Wilkinson were absent.

- B. A motion to find that the project is part of a subdivision failed (4-4-0-2).

Board members John Tewhey, Nancy Ziegler, Ernest Hilton and Virginia Plummer voted to support the motion. Board members Katharine Littlefield, Richard Wardwell, Melford Pelletier and John Marsh voted opposed. Board members Irving Faunce and Jean T. Wilkinson were absent.

- C. A motion to approve the application of Widewaters Stillwater for a retail development project as presented in the draft order provided by DEP staff with an amendment to include a condition requiring a performance bond failed (3-5-0-2).

Board members Melford Pelletier, Katharine Littlefield and Richard Wardwell voted to support the motion. Board members Ernest Hilton, Virginia Plummer, John Tewhey, Nancy Ziegler and John Marsh voted opposed. Board members Irving Faunce and Jean T. Wilkinson were absent.

- D. A motion to direct DEP staff to draft an order denying the application of Widewaters Stillwater Company for a retail development project in Bangor finding: (a) inadequate demonstration of financial capacity, (b) the project does not fit harmoniously into the existing natural environment, (c) unreasonable impact to wildlife, and (d) inadequate mitigation/compensation package failed (4-4-0-2).

Board members Ernest Hilton, John Tewhey, Nancy Ziegler and Virginia Plummer voted to support the motion. Board members Melford Pelletier, Katharine Littlefield, John Marsh and Richard Wardwell voted opposed. Board members Irving Faunce and Jean T. Wilkinson were absent.

- E. The Board voted (5-2-0-3) to table the application until March 20, 2003 to provide an opportunity for the applicant to consider whether it wanted to modify its proposal to address concerns voiced by Board members.

Board members John Tewhey, Ernest Hilton, Melford Pelletier, Nancy Ziegler and John Marsh voted to support the motion to table. Board members Katharine Littlefield and Richard Wardwell voted opposed. Board members Jean T. Wilkinson, Irving Faunce and Virginia Plummer were absent.

All votes were taken pursuant to 38 M.R.S.A. Section 341-D and 481 et. seq., and 06-096 CMR Chapters 2, 30, 371-378, and 500. Staff: Stacie Beyer, Bureau of Land and Water Quality.

The Board conducted a public hearing at 2:00 p.m. regarding:

Chapter 579, Classification Attainment Evaluation Using Biological Criteria for Rivers and Streams / New.